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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,665	05/18/2001	Robert Cosmo Di Luccio	KCX-1501 (15512)	3343
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EXAMINER				
ANDERSON, CATHARINE L				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
10/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/859,665

**Applicant(s)**

LUCCIO ET AL.

**Examiner**

Lynne Anderson

**Art Unit**

3761

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 10-12, 14-20, 23-29, 31-34, 36-42, 44-48 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6, 10-12, 14, 27-29, 31-34, 39-42, 44-48 and 50 is/are allowed.
- 6) ☒ Claim(s) 15-20 and 23-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Group II in the reply filed on 1 August 2008 is acknowledged. The traversal is on the ground(s) that since all claims have already been examined there does not appear to be a serious burden. This is found persuasive and claims 1-4, 6, 10-12, 14-20, 23-26, and 44-45 are rejoined.

***Allowable Subject Matter***

2. The indicated allowability of claims 15-20 and 23-26 is withdrawn in view of the newly considered reference(s) to Hamilton et al. (6,562,192). Rejections based on the newly cited reference(s) follow.

3. Claims 1-4, 6, 10-12, 14, 27-29, 31-34, 36-42, 44-48, and 50 are allowed.

***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 15-20 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamilton et al. (6,562,192).

Hamilton discloses a method comprising forming a tampon including a nonwoven web material and dispersing within the nonwoven nits comprising a treatment chemistry, as disclosed in column 47, lines 33-40, and contacting the treatment chemistry with menses, as disclosed in column 7, lines 44-48. The treatment chemistry comprises chitosan, as disclosed in column 25, lines 25-42, which is a water-soluble gelling agent which crosslinks protein. The nits comprise pulp fibers, and the treatment chemistry is

added to the pulp fibers prior to drying of the fibers, resulting in the treatment chemistry being present throughout the fibers, as disclosed in column 22, lines 24-25.

With respect to claim 16, the treatment chemistry is in the form of particles, as disclosed in column 25, lines 39-40.

With respect to claim 17, the treatment chemistry is uniformly dispersed within a portion of the interior of the nonwoven, as disclosed in column 30, lines 55-57.

With respect to claim 18, the tampon comprises a plurality of nonwoven material layers, as disclosed in column 47, lines 36-40.

With respect to claim 19, the treatment chemistry is not dispersed on the nonwoven coverstock material, as disclosed in column 47, lines 36-40.

With respect to claim 20, the treatment chemistry is dispersed non-homogeneously, as disclosed in column 30, lines 55-57.

With respect to claim 23, the nonwoven web material is airlaid, as disclosed in column 47, lines 36-40.

With respect to claim 24, the treatment chemistry comprises a water-soluble gelling agent, as disclosed in column 25, lines 39-40, and a superabsorbent, as disclosed in column 29, lines 54-55.

6. With respect to claims 25-26, the treatment chemistry is a polyglycan water-soluble gelling agent, chitosan.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./  
Examiner, Art Unit 3761  
/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761